



**GAE Committee
Public Hearing
March 14, 2016**

TESTIMONY OF SECRETARY OF THE STATE DENISE W. MERRILL REGARDING:

- **House Bill 5610, AN ACT REQUIRING THE LICENSING OF TAX PREPARERS AND FACILITATORS**
- **House Bill 5613, AN ACT PROHIBITING DISCLOSURE OF DATE OF BIRTH INFORMATION ON VOTER RECORDS**
Senate Bill 341, AN ACT MODIFYING PROHIBITIONS AGAINST CONTINGENT FEES AND COMMISSIONS FOR PUBLIC ACCOUNTANTS AND REQUIRING ONLINE RENEWAL OF LICENSES

Good morning Chairman Cassano, Chairman Jutila, Ranking Members McLachlan and Smith and members of the committee. My name is Denise Merrill and I am the Secretary of the State of Connecticut.

- **House Bill 5610, AN ACT REQUIRING THE LICENSING OF TAX PREPARERS AND FACILITATORS**

My office is putting forward this bill, which would extend the authority of the Secretary of the State to regulate non-credentialed tax preparation services in order to protect consumers.

I hope you will support this bill.

In Connecticut, roughly 861,000 filers use tax preparation services. Nationally, we know around half of all returns were filed by unregulated preparers. If the national statistic is mirrored locally, that means around 400,000 filers are using unlicensed tax preparers. Some of these preparers have had no training in tax preparation. In fact, consumer groups claim that barbers are bound by more regulations than independent tax preparers.

This is a significant cause for concern. Every year beginning in the month of January and ending around July, the Connecticut State Board of Accountancy receives numerous complaints and

calls from individuals who have suffered harm at the hands of unregulated commercial tax preparers. These complaints include allegations of unfair business practices, professional misconduct, fraud, embezzlement, failure to file returns in a timely manner and failure to return client records.

These matters are often referred to the Board of Accountancy by the Department of Consumer Protection and other state and federal agencies. However, the board is forced by statute to dismiss these matters for lack of jurisdiction. The board's policy is to investigate in order to determine if there is proper jurisdiction and more often than not the respondent is a person who does not hold a professional credential or who is not regulated by the Internal Revenue Service.

As a result the issue is unresolved, leaving the complainant with no recourse other than civil or criminal court, which can be very costly, particularly when the respondent has gone off the grid until the following tax season.

This problem has been recognized by numerous states and is currently being discussed under proposed federal legislation, the Tax Preparer Competency Act (HR 4141).

As a new tax season approaches, we should consider the regulation and necessary protection of our citizens who can be harmed by these non-credentialed commercial tax preparers. We can follow the lead of New York, California, Maryland and Oregon by creating a Connecticut State Board of Tax Practitioners, which would reside in the Secretary of the State's office.

This would entail additional staffing, perhaps as many as five new staff members in the Secretary of the State's office. Yet this office would also generate revenue and we believe would be self-sustaining. The bill imposes regulation and enforcement by a Connecticut State Board of Tax Practitioners to impose: (1) registration; (2) licensure; (3) continuing education; (4) renewal; (5) disclosure; and (5) enforcement for non-credentialed commercial tax preparers.

Applicants would need to meet the outlined qualifications, starting at Section 4, and pay the \$50 initial application fee for a tax preparer's or facilitator's license. If the tax preparers violate the prohibitions set forth in Section 9, a penalty of up to \$2,500 will be imposed.

What's most important is that we ultimately restore consumer confidence in services rendered by the individuals performing tax preparation services.

We are trying to ensure that our proposed bill is sufficiently narrowed to apply to the appropriate circumstances. We are exempting a number of individuals because they are already subject to separate, comprehensive regulatory regimes or do not pose a significant threat to the public, such as:

1. An individual in good standing with an active license issued by the Connecticut State Board of Accountancy;
2. An individual in good standing and admitted to practice law in the State of Connecticut or in another state, and employees of attorneys, or firms thereof, preparing returns under the supervision of such attorneys;

3. An individual employed by a local, state, or federal governmental agency but only in performance of official duties;
4. An individual enrolled to practice before the Internal Revenue Service who is governed under Circular 230;
5. An individual serving as an employee of or assistant to an individual tax preparer or an individual exempted under this subsection in the performance of official duties for the individual tax preparer or the individual exempted under this subsection;
6. Any full or part-time employee hired to fill a permanent position, in connection with the duties as an employee has the incidental duty of preparing income tax returns for the business of the employer only;
7. While acting as such, any fiduciary, or the regular employees thereof, acting on behalf of the fiduciary estate, the testator, grantor, or beneficiaries thereof;
8. A certified public accountant that holds an active firm permit or license issued by any state, a public accountant holding a valid permit issued under a public accounting firm registered in any state;
9. Also excluded are Internal Revenue Service qualified tax preparers, such as, Volunteer Income Tax Association, Tax Counseling for the Elderly.

All of the above-mentioned people are expressly exempted from the bill's language.

For the foregoing reasons, I ask that the committee extend the authority of the Secretary of the State to regulate non-credential tax preparation services, and provide the necessary staffing and budget to ensure that the regulation and enforcement can be done in an efficient and adequate manner.

- **House Bill 5613, AN ACT PROHIBITING DISCLOSURE OF DATE OF BIRTH INFORMATION ON VOTER RECORDS**

I would like to draw attention to the fact this bill may be duplicative of parts of House Bill 5616.

My office is putting forward this proposal, which protects certain pieces of personal information in the voter file. This proposal is in response to a recent action involving the voter file that has roused significant concern in our office. Specifically, a private citizen in New Hampshire created a website that published the names and other information regarding voters for view by the general public.

This bill would restrict certain uses of the voter file as well as limit the kind of information provided. I hope you will support it.

It will be no surprise to members of the committee that the voter file is public information available under the Freedom of Information Act. However, this is, in fact, a shock to most members of the public. When people stumble across their personal information on the internet it can cause distress and make them feel exposed and vulnerable.

This proposal does not seek to withhold the voter file from Freedom of Information Laws. Transparency in our elections helps to protect the integrity of our system.

However, I also want to recognize that the internet expands the viewership and potential republication. In the age of identity theft I would ask the committee to help us strike a better balance between privacy and public information. Specifically, the voter file, when requested under FOI would include only the year of birth, but not the month and day.

It would also not allow for this file to be published online for the purpose of viewing by the general public. These restrictions would still provide adequate transparency necessary for the elections process but limit some of the less necessary personal data of individuals.

What has been put forward in this act is a reasonable attempt to curtail the exposure of private citizens' personal data and I hope you will support this bill.

- Senate Bill 341, **AN ACT MODIFYING PROHIBITIONS AGAINST CONTINGENT FEES AND COMMISSIONS FOR PUBLIC ACCOUNTANTS AND REQUIRING ONLINE RENEWAL OF LICENSES**

My office is putting forward this bill which would modify provisions concerning the prohibitions for certain types of service providers regulated by the Board of Accountancy against accepting commissions and contingency fees. It would also require licensees to renew their license to practice public accountancy online and to make technical changes.

I hope you will support this bill.

The American Institute of Certified Public Accountants' rules of conduct prohibit a member in public practice from accepting commissions in exchange for client referrals while members perform certain types of services for those clients. The standards also forbid Certified Public Accountants from accepting contingency fees in a number of circumstances to prevent incentivizing misconduct.

However, there is a contradiction in the regulatory language, at Sec. 20-280-15c., regarding rules of conduct, and the statutory language at Sec. 20-2811, on contingent fees and referrals.

The contradiction refers to what is actually permitted and it has caused some confusion to the public. We propose ensuring that the regulations and the statutes match by changing the statutory language to language that is consistent with the American Institute of Certified Public Accountants' rules of conduct.

This bill also requires licensees to renew their licenses online with an exception granted only for hardship. This is consistent with my office's ongoing efforts to move as many functions online as a convenience to our customers.

The Board of Accountancy administers about 8,000 licensees and renewals, which generate almost 2.7-million in revenues.

We are implementing a new e-licensing system along with many of our counterpart agencies, namely the Department of Health. Since introducing this system the vast majority of our licensees have embraced it. Of the 8,000 licensees, only around 100 continue using paper renewals. Board of Accountancy licensees simply prefer the speed and convenience of renewing licenses online. It is faster and easier. Most people receive their license within 24 hours and are able to print it at home or at the office.

This is a common-sense proposal and I hope you will support it.